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February 10, 2022

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Refer To File No.
069030-001

Via ECF

Hon. Ronnie Abrams, U.S.D.J.
Thurgood Marshall U.S. Courthouse
40 Foley Square, Courtroom 1506
New York, New York 10007

**Re: Weekes v. Paper Mart, Inc.
Case No. 1:21-cv-10582-RA**

Dear Judge Abrams:

On behalf of defendant Paper Mart, Inc. (“Paper Mart”), this letter-motion is respectfully submitted pursuant to Federal Rule of Civil Procedure 41(b) for the entry of an order dismissing the above-captioned civil action against Paper Mart with prejudice. Plaintiff Robert Weekes (“Plaintiff”) has advised Paper Mart that he will not pursue this action against Paper Mart and consented to relief requested by Paper Mart.

On December 10, 2021, Plaintiff commenced this civil action by filing a complaint, naming Paper Mart as the sole defendant. [ECF No. 1]. Counsel for Paper Mart subsequently informed counsel for Plaintiff that he had named the wrong party as the defendant, as Paper Mart does not own or conduct business through the website identified in his complaint, and asked him to voluntarily dismiss Plaintiff’s claims against Paper Mart.

On January 21, 2022, counsel for Plaintiff acknowledged that “[y]our client was incorrectly named as the defendant in this lawsuit” and stated that Plaintiff “consider[s] the matter resolved as to your client” based on his filing of an amended complaint naming a different defendant. [Declaration of Alexander S. Firsichbaum (“Firsichbaum Decl.”), Exh. A; *see* ECF No. 7]. Notwithstanding this filing, however, Paper Mart remains identified as an active defendant on the docket sheet for this civil action and the docket sheet does not formally reflect a final disposition

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of the claims asserted against Paper Mart in the complaint commencing this civil action. Accordingly, counsel for Paper Mart requested that Plaintiff consent to the dismissal with prejudice of this civil action as against Defendant Paper Mart. Plaintiff has consented to this requested relief. [Firsichbaum Decl., Exh. B].

For these reasons, Paper Mart respectfully requests the entry of an order formally dismissing this civil action against Paper Mart, Inc. with prejudice.

Respectfully submitted,


ORLOFF, LOWENBACH, STIFELMAN
& SIEGEL, P.A.

By: /s/ Alexander S. Firsichbaum
ALEXANDER S. FIRSICHBAUM

cc: Counsel of record (via ECF)

Application granted.

SO ORDERED.



Hon. Ronnie Abrams
02/11/22

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT WEEKES, Individually, and
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

FRICK PAPER COMPANY,

Defendant.

: CIVIL ACTION NO. 1:21-cv-10582-RA

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**DECLARATION OF
ALEXANDER S.
FIRSICHBAUM**

ALEXANDER S. FIRSICHBAUM, of full age, declares as follows:

1. I am counsel for defendant Paper Mart, Inc. (“Paper Mart”). I make the following statements based on my personal knowledge.

2. Annexed hereto as Exhibit A is a copy of a January 21, 2022, e-mail from counsel for plaintiff to counsel for Paper Mart.

3. Annexed hereto as Exhibit B is a copy of a February 3, 2022, e-mail from counsel for plaintiff to counsel for Paper Mart, consenting to the dismissal of this civil action against Paper Mart with prejudice.

I declare under penalty of perjury that the forgoing is true and correct.

/s/ Alexander S. Firsichbaum

ALEXANDER S. FIRSICHBAUM

Executed on February 10, 2022
Morristown, New Jersey

EXHIBIT A

From: William Downes <wdownes@mizrahikroub.com>
Sent: Friday, January 21, 2022 4:57 PM
To: oc@olss.com; Alexander S. Firsichbaum; Rosemarie Priolo
Subject: FW: Weekes v Papermart.com
Attachments: US_DIS_NYSD_1_21cv10582_7_FIRST_AMENDED_COMPLAINT_amending_1_Complaint_again.pdf

Dear Mr. Ollenschleger,

Attached, please find the amended complaint that was filed in this case as we discussed in our phone call. Your client was incorrectly named as the defendant in this lawsuit. We have amended the complaint to refer to the correct entity, and represent we will take no unilateral action, including moving for default, against your client. We regret the inadvertent error and consider the matter resolved as to your client.

Sincerely,
Will Downes



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EXHIBIT B

From: William Downes <wdownes@mizrahikroub.com>
Sent: Thursday, February 3, 2022 4:38 PM
To: Craig A. Ollenschleger
Cc: Edward Kroub; Jarrett Charo; Jeffrey M. Garrod; Alexander S. Firsichbaum; Rosemarie Priolo
Subject: RE: Weekes v Papermart.com re: Renewed request by Paper Mart, Inc. for consent to motion to dismiss with prejudice

Dear Mr. Ollenschleger,

We will consent to a dismissal with regard to your client.

Sincerely,
Will Downes.